

STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON

ORD2019-025

**AN ORDINANCE BY THE CITY OF SOUTH FULTON, GEORGIA, AMENDING TITLE 7, MUNICIPAL COURTS, OF THE CITY CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, the duly elected governing authority of the City, is the Mayor and Council thereof ("City Council");

**WHEREAS**, the City is authorized to establish rules and regulations governing its Municipal Court; and

**WHEREAS**, this Ordinance is in the best interests of the health and general welfare of the City, its residents and general public.

**NOW THEREFORE, THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as follows:

**Section 1.** Title 7, Municipal Courts, of the City of South Fulton Code of Ordinances is hereby amended by deleting in its entirety and replacing it to read as follows:

**Title 7 - MUNICIPAL COURTS**

**CHAPTER 1. - IN GENERAL**

**Sec. 7-1001. - Jurisdiction.** The municipal court of the city shall have jurisdiction as authorized by the city charter and all applicable local state and federal rules, regulations and/or laws.

**Sec. 7-1002. - Judges.** Municipal court judges shall perform all duties as authorized by local, state and federal rules, regulations and laws, and shall be appointed and compensated as follows:

- (a) **Chief Judge.** In accordance with section 5.11 of the Charter, the chief judge shall be nominated by the mayor and shall be confirmed by resolution of the city council. Compensation for the chief judge shall be negotiated by the city manager and confirmed by the city council.
- (b) **Pro Tem Judges.** Additional judges, known as pro tem judges, shall be authorized to preside over the municipal court, on an as needed basis. Pro tem judges shall

be nominated by the mayor, subject to confirmation by the city council. Pro tem judges nominated by the city council shall serve a four year term and may be reappointed to consecutive terms thereafter. Pro tem judges may also be appointed on a temporary basis by the court administrator, as the need arises, with the exception that any pro tem judge so appointed by the court administrator may not serve for a period longer than ninety days unless subsequently confirmed by the city council. Pro tem judges shall be compensated as follows:

First Appearance sessions: ..... \$250.00

All other sessions: ..... \$400.00

The chief judge may also privately subcontract for pro tem judges to sit in for the chief judge during times that the chief judge is required to preside but is unavailable. The city council may confirm a chief pro tem judge who shall have full authority as the chief judge during any vacancy or period of absence of the chief judge. The compensation of the chief pro tem judge shall be set by the city council.

**Sec. 7-1003. - Additional personnel.** The city council may cause for additional personnel to help facilitation municipal court operations, which shall include the following:

- (a) *Court Administrator.* The court administration, who shall report to the city manager, shall be responsible for the management of all court operations and shall provide a quarterly report to the city council to include information on the volume of the court's docket, remitted fines and payments to the city, citations issued, and any other information determined to be relevant or which is requested by the city council.
- (b) *Clerk of the court.*
- (c) *Police.* Officers of the city police department or the county police department or the county sheriff's department, or any other law enforcement officer with jurisdiction, may take all actions authorized by law, including the execution of warrants and other writs, in furtherance of the court's jurisdiction and orders.
- (d) *Bailiff.* At least one police department officer will serve as a bailiff whenever the municipal court is in session.
- (e) *Solicitor.* One or more attorneys may be authorized by the city to serve as a prosecuting attorney in the municipal court. The compensation of any such attorney(s) shall be determined by the city council.

**Sec. 7-1004. - Schedule.** The municipal court may be convened at regular intervals for first appearances, bind overs and other proceedings at the City Community Court and/or Union City Courthouse as follows:

- (a) Monday 9:30 First Appearance, Bench Trials, 2nd Chance South Fulton;
- (b) Wednesday 9:30 First Appearance Plea and Arraignment, Code Enforcement; and
- (c) Friday 1:00 First Appearance and Plea and Arraignment.

Upon the approval of the chief judge, the municipal court may conduct special sessions at the City Community Court and/or Union City Courthouse as the need arises.

**Sec. 7-1005. - Authority to enact rules and regulations.**

- (a) The chief judge has the full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court. All rules shall be subject to the approval of the council. Such rules shall be filed with the city clerk and made available on the city website or by other means determined by the council. Upon request, such rules must be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.
- (b) All rules proposed by the municipal court shall follow applicable local, state and federal rules, regulations and laws.

**Sec. 7-1006. - Contempt of court.** The court may find persons in contempt of court and punish said persons as authorized by law.

**Sec. 7-1007. - Fines.**

- (a) For fines that may be due by any defendant, execution may be issued by the court clerk and collected as provided by law. The municipal court shall have the discretion to enter fees and fines consistent with this Code, and state and federal law.
- (b) Persons charged with traffic violations or other offenses, as specified by the judge may, prior to the time for their court appearance, plead guilty in writing and pay to the city as their fine the amount set as the appearance bond for the offense charged. Those persons charged with driving under the influence of alcohol or drugs and other serious offenses, as determined by the municipal court judge, shall be required in all cases to appear before the court for disposition of the case.

**Sec. 7-1008. - Sentences.** In addition to any applicable fines, and upon a judgment or plea of guilty or pretrial diversion, the municipal court judge may impose sentence of confinement, compulsory work, or both; commit the defendant to confinement, compulsory work or both; suspend the execution of the sentence in whole or in part; place

the defendant on probation; or defer the execution of the sentence or any portion or portions thereof to one or more fixed dates in the future. The court may punish for violations within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for six months, or both; except as otherwise provided by the city code or state and federal law.

**Sec. 7-1009. - Appeals.** Unless specified elsewhere in the Code or Charter, all appeals from decisions of the municipal court shall be appealable, by right of certiorari, to the superior court of Fulton County under the laws of the state regulating the granting and issuance of writs of certiorari.

**Sec. 7-1010. - Payment of costs.**

- (a) The costs in all cases tried before the municipal court shall be set at the discretion of the municipal court judge. Costs include all costs accrued in the committing and trial court and by any officer pending the prosecution, including but not limited to all costs incurred by the city to house the individual in the city's jail facilities.
- (b) Upon conviction, the costs may be charged and collected from the defendant at the discretion of the judge.

## **CHAPTER 2. - BAIL**

**Sec. 7-2001. - General provisions.** Bail and bond considerations must be consistent with section 5.13(e) of the Charter and the Rule 18 of Uniform Rules, Municipal Courts of Georgia.

**Sec. 7-2002. - Minor traffic offenses.**

- (a) Pursuant to O.C.G.A. § 17-6-11, any person cited for a traffic offense shall be released in lieu of bail upon showing his or her driver's license. This provision does not apply to any charge of driving under the influence or other serious offenses designated by the chief judge.
- (b) All persons arrested or notified by citation or ticket of parking violations shall be released on their own recognizance.

**Sec. 7-2003. - Professional bondsmen.** No professional bondsman shall be accepted as surety on a bail bond unless he holds a current business license in the city, is approved by the chief of police, and has fully complied with all other city requirements for bonding companies.

1 **Sec. 7-2004. - Failure or refusal to give bond.** If the accused or a witness shall fail or  
2 refuse to give the bond and security as required under this chapter, the person so failing  
3 or refusing may be confined or kept under guard, so as to be present to abide the trial or  
4 to testify as the case may be.

### 5 **CHAPTER 3. - COURT PROCEDURE**

6 **Sec. 7-3001. - Summons—Issuance.** Any member of the department of police, the  
7 solicitor of the municipal court and the assistant solicitor, in all cases where a complaint  
8 is made or information is obtained of any violation of this Code or other laws or ordinances  
9 of the city, shall issue a summons, directed to the accused, requiring the accused to  
10 appear before the municipal court to answer this charge. The summons shall designate  
11 the time and place of trial and shall be signed by the member of the department of police,  
12 the solicitor or assistant solicitor issuing it and a copy thereof shall be served upon the  
13 accused either personally or by leaving the copy at the place of residence of the accused.

14 **Sec. 7-3002. - Same—Failure to appear.** It shall be unlawful for any defendant lawfully  
15 summoned to answer charges in the municipal court to either fail, neglect or refuse to  
16 appear at the time and place specified in the summons or fail to provide a satisfactory  
17 explanation for this absence. Failure to appear in municipal court for any noticed  
18 appearance may be cause for the court to continue the case until such time as the court  
19 shall direct, and the court may issue an order requiring the police chief, or other members  
20 of the department of police, to arrest the defendant and bring the defendant before the  
21 court to answer both the initial charges and the charge for failing to appear. The chief of  
22 corrections shall keep the defendant in custody until the defendant is brought before the  
23 court, unless the defendant posts bond for appearance, as provided by law. Nothing  
24 herein stated shall be construed to abridge the right of the solicitor to bring an action  
25 against the defendant.

26 **Sec. 7-3003. - Subpoenas—Issuance.** Whenever the attendance of any witness may be  
27 required before the municipal court to establish any fact, the clerk of the municipal court  
28 shall issue a subpoena directed to the witness, stating the time and place of trial and the  
29 parties to the case, which shall be served as other process by the police chief or other  
30 police officers.

31 **Sec. 7-3004. - Same—Failing or refusing to obey.** If any person lawfully summoned as  
32 a witness before the municipal court shall either fail, neglect or refuse to attend the trial  
33 for which the person has been summoned or fail to provide a satisfactory explanation for  
34 this absence, the person may be cited for contempt and be fined in a sum not to exceed

35 \$200.00. If the cause is continued because of the absence of this person, the court may  
36 issue attachment against the person requiring the person to show cause on the day  
37 appointed for trial why the person should not be cited for contempt. The police chief or  
38 other police officer shall, by virtue of the attachment, arrest the person and keep the  
39 person in custody until the person is brought before the court, unless the person posts  
40 bond for appearance, as provided by law.

41 **Sec. 7-3005. - Contempt.** Any person who, during a sitting of the municipal court, shall  
42 be guilty of a contempt of court or who refuses to abide by an order of the court or  
43 sentence may be punished in the same manner as that provided in state law for contempt  
44 against the superior courts of this state.

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47 **Section 3.** It is hereby declared to be the intention of the City Council that: (a) All  
48 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were,  
49 upon their enactment, believed by the City Council to be fully valid, enforceable and  
50 constitutional.

51 (b) To the greatest extent allowed by law, each and every section, paragraph,  
52 sentence, clause or phrase of this Ordinance is severable from every other section,  
53 paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph,  
54 sentence, clause or phrase of this Ordinance is mutually dependent upon any other  
55 section, paragraph, sentence, clause or phrase of this Resolution.

56 (c) In the event that any phrase, clause, sentence, paragraph or section of this  
57 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or  
58 otherwise unenforceable by the valid judgment or decree of any court of competent  
59 jurisdiction, it is the express intent of the City Council that such invalidity,  
60 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not  
61 render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases,  
62 clauses, sentences, paragraphs or sections of the Ordinance.

63 **Section 4.** All Ordinance and Resolutions in conflict herewith are hereby expressly  
64 repealed.

65 **Section 5.** The City Attorney, City Clerk and contracted City Codifier are authorized  
66 to make non-substantive formatting and renumbering edits to this ordinance for proofing,  
67 codification, and supplementation purposes. The final version of all ordinances shall be  
68 filed with the clerk.

69       **Section 6.** The effective date of this Ordinance shall be on the date as set forth under  
70       Sec. 3.21 of the City Charter unless provided otherwise by applicable local, state and/or  
71       federal law.

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73       **Section 7. Instruction to City Clerk:** The City Clerk is hereby directed to circulate  
74       a copy of this Resolution to all City Department Heads promptly following its adoption.  
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78       THIS ORDINANCE so adopted this 10<sup>th</sup> day of September 2019.

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80       **CITY OF SOUTH FULTON, GEORGIA**

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84       WILLIAM "BILL" EDWARDS, MAYOR  
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87       ATTEST:

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89       S. DIANE WHITE, CITY CLERK  
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93       APPROVED AS TO FORM:

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95       EMILIA C. WALKER, CITY ATTORNEY  
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The foregoing Ordinance No. 2019-025 was moved for approval by Councilmember Gumbs . The motion was seconded by Councilmember Gilyard , and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<u>          </u>	<u>          </u>
Mark Baker, Mayor Pro Tem	<u>      X      </u>	<u>          </u>
Catherine Foster Rowell	<u>      X      </u>	<u>          </u>
Carmalitha Lizandra Gumbs	<u>      X      </u>	<u>          </u>
Helen Zenobia Willis	<u>      X      </u>	<u>          </u>
Gertrude Naeema Gilyard	<u>      X      </u>	<u>          </u>
Rosie Jackson	<u>      X      </u>	<u>          </u>
khalid kamau	<u>      X      </u>	<u>          </u>